tions between the child and his natural parents terminate. And, except as to property expressly limited to the heirs of the body of the adoptive parent (an exception of no apparent moment on the question of the status created), the right conferred upon the child to inherit from such parent is also measured by that in law of a natural child. We think it logically follows from the authorities to which reference has been made that under the statute, construed in the light of the civil law, the adopted child by the event of the adoption becomes the legal child of the person or persons making the adoption, and stands as to the property of the adoptive parent in the same position as a child born in lawful wedlock. Ross *v.* Ross, cited above; Buckley *v.* Frazier, 153 Mass. 525, 27 N. E. 768; Flannigan *v.* Howard, 200 Ill. 396, 65 N. E. 782, 59 L. R. A. 664, 93 Am. St. Rep. 201; Atchison *v.* Atchison's Ex'rs, 89 Ky. 488, 12 S. W. 942, 11 Ky. Law Rep. 705; Hilpire *v.* Claude, 109 Iowa, 159, 80 N. W. 332, 46 L. R. A. 171, 77 Am. St. Rep. 524; Moran *v.* Moran, 151 Mo. 558, 52 S. W. 378.

Imprisoning Witnesses to Secure Their Attendance.—In a recent case in Georgia (Crosby *v.* Potts, 8 Ga. App. 463) the court committed a witness to jail in default of bail for appearance at the trial. He sued out habeas corpus, and his chief contention was that the court had no power to pass the order committing him to jail unless he would give bail for his appearance, because no such power existed at common law, and it had not been given by statute in the state. The court said:

"We do not think that the contention of counsel is well taken that no power existed at common law by which the courts could compel a witness to give bail for his appearance at the trial. As Bayley, B., said as to a somewhat similar proposition in the case of Summers *v.* Moseley, 2 Cr. and M. 489, 'Prior to that statute [the statute of Elizabeth, supra] there must have been a power in the crown (for it would have been utterly impossible to carry on the administration of justice without such power) to require the attendance in courts of justice of persons capable of giving evidence, and the production of documents material to the cause, though in the possession of a stranger.' The fact that no precedent of a common-law court's having done the precise thing done in this case does not negative the fact that the courts did have the power. As Professor Wigmore says in his great work on Evidence, speaking along this general line, 'But how culpable is this self-stultifying concession by a court of justice that it knows of no process to execute its powers for enforcing a conceded duty! There cannot be a precise precedent for everything. Where there is a clearly established principle, the lack of a precedent is no obstacle. There must some time be a first precedent. Were the judges of Charles II or George III, who themselves were but the followers of six centuries of royal judges, the

last generation vested with the authority to apply old principles in new forms? Nobody has been able to find any definite authority for the duces tecum form of subpœna; but the judges of 1808 were not moved by such trifling; such a power, they declared, is "essential to the very existence and constitution of a court of common law." The mere phrasing of an auxiliary writ is not to stand in the way of inherent powers. Is there any known precedent of a writ to a court-bailiff ordering him to shut the doors to keep out an excessive throng, or to open the windows to let in fresh air? But no judge ever refrains from such orders because he has never seen such a form. The ordinary subpœna for a witness is of no avail when he is in prison; but the judges—somebody, some time, no one knows who or when—varied the form of words and ordered the jailer habeas corpus ad testificandum. They did not supinely sit and watch justice defrauded of testimony because the usual piece of parchment did not precisely fit the exigency.'

"We believe that the power to take every adequate means to compel the attendance of witnesses or the production of testimony inhered in the courts of the common law as a part of their necessary powers."

MISCELLANY.

Sterilization of Convicts as Being a Constitutional Punishment.—The theory of punishment for crime is that it is to deter other commission of crime. When it amounts to deprivation of life, this is upon the principle that infraction of law has been so grievous that there is a forfeiture of the right to live, and the declared policy of the state to take advantage of it. That same policy declares that other violations may incur a forfeiture of liberly during an entire life or a part thereof, or there may be a forfeiture of property.

In other times, but rarely now, we believe, there was entailed restraint of liberty sufficiently long for the infliction of corporal punishment or the exposure of malefactors to public humiliation and disgrace. These punishments were exemplified by the whipping-post and the stocks. Then again there was the branding on the forehead or other part of the body the ineffaceable sign of conviction of certain offenses. This last, however, has for a long time been deemed barbarous.

Our American constitutions came along and generally forbade cruel and unusual punishment for crime, and we take it that such a prohibition would not be limited merely to what would be deemed "cruel and unusual" at the dates respectively of these constitutions. It rather should be thought to be a guarantee to accommodate itself to future times, and thus its spirit be properly recognized.

Thus, though life imprisonment or for a term of years might, at